

DAVID BURCHARD
CHAPTER 13 TRUSTEE
P.O. BOX 8059
FOSTER CITY, CA 94404
(650) 345-7801 FAX (650) 345-1514
(707) 544-5500 FAX (707) 544-0475

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:

KEDRA RENEE RHODES-SUMLER
1511 SYCAMORE AVE.
STE M178
HERCULES, CA 94547

Debtor(s)

Chapter 13
Case No: 23-30609 DM
Date: December 20, 2023
Time: 10:10 AM
Cttrm: TELEPHONE / VIDEO

**MOTION OF CHAPTER 13 TRUSTEE, DAVID BURCHARD,
TO DISMISS CASE PRIOR TO CONFIRMATION**

TO: THE ABOVE-NAMED DEBTOR(S) AND TO DEBTOR(S)' ATTORNEY OF RECORD HEREIN:

The Chapter 13 Trustee, DAVID BURCHARD, moves the Court for an order, dismissing this case for cause(s) for the reasons set forth below.

1. This Court has jurisdiction over this matter pursuant to Federal Rules of Bankruptcy Procedure 9013 and 9014, and Bankruptcy Local Rules 9013-1 and 9014-1. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A).
2. This Motion is based upon all documents and records on file, together with this Motion, Declaration and any such additional documents, records and evidence which may be presented.
3. Debtor(s) filed for bankruptcy under Chapter 13 on 09/06/2023.
4. This motion for dismissal is made for cause pursuant to:

11 U.S.C. § 1307(c)(1) as there is unreasonable delay that is prejudicial to creditors.
11 U.S.C. § 1307(c)(4) as Debtor(s) failed to make timely payments to the Trustee. As of the date of this motion, \$1,818.51 is in default under the Chapter 13 Plan.
5. The cause to dismiss this case exists as it is in the best interests of creditors and the bankruptcy estate. The Trustee therefore requests the Court enter an order dismissing this case.

If you wish to oppose dismissal of this Chapter 13 case, you or your attorney must file a timely opposition to this motion no later than fourteen (14) days before the hearing set forth in the accompanying Notice of Motion. You or your attorney must also appear at the hearing date listed in the notice and present argument in opposition to this motion.

DATED: November 6, 2023

DAVID BURCHARD
DAVID BURCHARD, Chapter 13 Trustee

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In re:

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**DECLARATION IN SUPPORT OF CHAPTER 13 TRUSTEE,
DAVID BURCHARD'S, MOTION TO DISMISS CASE
PRIOR TO CONFIRMATION**

I am the custodian and/or keeper of the business records referenced herein and, as such, I am qualified to certify the authenticity thereof. Additionally, I have personal knowledge of the matters stated in the Declaration. If called upon as a witness, I could and would competently testify to the facts contained herein.

After reviewing the books, records and files of the above-referenced Debtor(s), I make the following Declarations:

1. Debtor(s) filed the instant bankruptcy petition on 09/06/2023. There is unreasonable delay towards plan confirmation that is prejudicial to creditors.
2. As of the date hereof, the following fact(s) exists as cause for dismissal:

<u> X </u>	Failure to make required payments to the Trustee. \$ 1,818.51 is in default under Ch. 13 Plan.
<u> </u>	Failure to attend Section 341 Meeting of Creditors scheduled on
<u> X </u>	Failure to respond to Trustee's requests – see attachment "A".

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on November 6, 2023 in Foster City, California.

Dated: November 6, 2023

DAVID BURCHARD

DAVID BURCHARD, Chapter 13 Trustee

CERTIFICATE OF SERVICE

I am over the age of 18 years and not a party to this action. I am employed by the Trustee whose business address is 1111 Triton Drive, Suite #100, Foster City, CA. On the date set forth below, I served a true and correct copy of the **Motion of Chapter 13 Trustee, David Burchard, to Dismiss Case Prior to Confirmation, the Declaration in Support of Chapter 13 Trustee, David Burchard's Motion to Dismiss Case Prior to Confirmation** and this **Certificate of Service**, on the persons listed below by following our ordinary business practice for service, which is either deposited in the ordinary course of business with the U.S. Postal Service by first class mail or served by electronic transmission from the Court, if applicable. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

KEDRA RENEE RHODES-SUMLER
1511 SYCAMORE AVE.
STE M178
HERCULES, CA 94547

The following recipients have been served via Court's Notice of Electronic Filing:

Dated: November 6, 2023

ROSA GARCIA

ROSA GARCIA

DAVID BURCHARD
CHAPTER 13 TRUSTEE
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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA**

In re:

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Debtor(s)

Case No.: 23-30609 DM
Chapter 13

ATTACHMENT "A"

The Trustee made the following requests at least 30 days prior to the filing date of the instant motion :

1. The debtor's plan was filed after the Notice of Bankruptcy was issued and therefore was not served to all creditors with the Notice of Bankruptcy. Trustee requested the debtor file a notice regarding the plan pursuant to Bankruptcy Local Rule 3015-1(b)(1) and that a certificate of service evidencing service of the notice and plan be filed with the Court. The debtor has failed to file the requested documents.
2. Trustee is in receipt of an objection to confirmation of plan by creditor, Nationstar Mortgage LLC, filed on October 3, 2023. Trustee requested that said objection to confirmation of plan be resolved prior to confirmation. The debtor has failed to resolve said objection.
3. Trustee is in receipt of an objection to confirmation of plan by creditor, Navy Federal Credit Union, filed on October 3, 2023. Trustee requested that said objection to confirmation of plan be resolved prior to confirmation. The debtor has failed to resolve said objection.
4. The debtor's plan includes a Class 1 claim but fails to reflect the start date. Trustee requested an amended plan which includes missing information. The debtor has failed to file an amended plan.
5. The debtor's plan fails to identify whether Class 14 claims will be paid a fixed dollar dividend, a percent dividend, or payment in full with interest at the Federal Post-Judgement Rate effective on the petition date. Trustee requested an amended plan which identifies the treatment of Class 14 claims. The debtor has failed to file an amended plan.
6. The debtor has taken a homestead exemption of over \$189,050. Trustee requested the debtor complete and file a Declaration of Debtor Regarding Homestead. The debtor has failed to file the requested declaration.

7. The information provided in question 1 of the Statement of Financial Affairs is incomplete. Trustee requested an amended Statement of Financial Affairs which provides complete answers to this question. The debtor has failed to file an amended Statement of Financial Affairs.
8. The debtor has failed to list all of her income information as required on questions 4 and 5 of the Statement of Financial Affairs. Trustee requested an amended Statement of Financial Affairs which lists all income received in the two years immediately preceding the filing of the petition. The debtor has failed to amend the Statement of Financial Affairs to include a response to questions 4 and 5.
9. Schedule I reflects income from rental and/or operation of a business; however, the debtor has not filed the required attachment to Schedule I that itemized gross income and expenses. Trustee requested an amended Schedule I with the required attachment. The debtor has failed to file the requested document.
10. Trustee requested verification of income from pension or retirement in the amount of \$4,000.00. The debtor has failed to provide the requested verification.
11. Trustee requested a signed copy of the debtor's 2022 filed federal income tax return. The debtor has failed to provide the requested document.